

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

FAYE HUDSON and husband, §
WILLIAM HUDSON, §
§
Plaintiffs, §
§
v. § Civil Action No. _____
§
STATE FARM MUTUAL AUTOMOBILE §
INSURANCE COMPANY and §
JOHN DOE, §
§
Defendants. §

NOTICE OF REMOVAL

Comes Defendant State Farm Mutual Automobile Insurance Company (“State Farm”), pursuant to 28 U.S.C. § 1441, and files this Notice of Removal to remove this civil action from the Circuit Court for Blount County, Tennessee, to the United States District Court for the Eastern District of Tennessee, Knoxville Division. In support of this Notice of Removal, State Farm states:

I. REMOVAL IS TIMELY

1. Plaintiffs initiated this case by filing a civil warrant with the Blount County General Sessions Court on March 17, 2011. The case was transferred to the Circuit Court for Blount County by an Agreed Order entered on August 16, 2011.

2. On February 7, 2012, Plaintiffs filed their Amended Complaint for Damages. (See Am. Compl.) State Farm received a service copy of the Amended Complaint for Damages

no sooner than February 16, 2012. The Amended Complaint for Damages was the first notice State Farm received that the \$75,000.00 amount-in-controversy requirement is satisfied.

3. State Farm files this Notice of Removal within one (1) year of commencement of this action and within thirty (30) days of receipt of the Amended Complaint for Damages. Therefore, this Notice of Removal is timely under 28 U.S.C. § 1446(b).

II. THIS COURT HAS DIVERSITY JURISDICTION

4. Plaintiffs are citizens and residents of the State of Tennessee. (See generally Am. Compl.)

5. State Farm is an Illinois corporation with its principal place of business in Bloomington, Illinois. State Farm is not a corporate citizen of Tennessee.

6. Defendant John Doe is a fictitious name and is described by Plaintiffs in the Amended Complaint as “an unknown hit and run driver.” (See Am. Compl. ¶ 2.) Pursuant to 28 U.S.C. § 1441, “the citizenship of defendants sued under fictitious names shall be disregarded” in determining whether an action is removable.

7. Complete diversity of citizenship exists between Plaintiffs and State Farm for purposes of this Court’s exercise of original jurisdiction under 28 U.S.C. § 1332. The John Doe Defendant has no bearing on the analysis. See 28 U.S.C. § 1441.

8. This case involves claims by Plaintiffs against State Farm for alleged breaches of an insurance contract, violation of the Tennessee Consumer Protection Act (“TCPA”), and violation of Tennessee’s bad faith statute. (See Am. Compl. ¶ 7.) Plaintiffs seek judgment against State Farm for \$35,000.00, plus treble damages and attorneys’ fees under the TCPA. (See id. Prayer for Relief.) Alternatively, Plaintiffs seek \$35,000.00 in damages and the bad faith penalty under Tenn. Code Ann. § 56-7-105. (See id.) In addition, Plaintiffs seek \$2,500.00

in alleged property damage and Plaintiff William Hudson seeks \$10,000.00 for his alleged loss of consortium. (See id.) The allegations in the Amended Complaint evidence that more than \$75,000.00, exclusive of interest and costs, is in controversy.

III. THIS NOTICE OF REMOVAL IS PROCEDURALLY CORRECT

9. Pursuant to 28 U.S.C. § 1446(a), State Farm is attaching to this Notice of Removal a copy of the complete state court record from the Circuit Court for Blount County, Tennessee.

10. The state court from which this action is removed—Circuit Court for Blount County, Tennessee—is within this Court’s federal district and division. Therefore, venue is proper in this Court pursuant to 28 U.S.C. § 1441(a).

11. State Farm will promptly provide written notice of the removal of this action to Plaintiffs and the Circuit Court for Blount County by filing a Notice of Filing Notice of Removal, together with a copy of the Notice of Removal, and by serving the same on counsel for Plaintiffs, as provided under 28 U.S.C. § 1446(d).

WHEREFORE, based upon the foregoing, State Farm removes this action from the Circuit Court for Blount County, Tennessee, to the United States District Court for the Eastern District of Tennessee, Knoxville Division.

Respectfully submitted,

s/ Chad E. Wallace (BPR No. 021741)

Chad E. Wallace, BPR No. 021741

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CERTIFICATE OF SERVICE

I hereby certify that I have on February 21, 2012, caused a copy of the foregoing to be filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

Horace M. Brown
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s/ Chad E. Wallace (BPR No. 021741)

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